

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of CastlePride Builders, LLC

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above matter came on for a Prehearing Conference before Administrative Law Judge (ALJ) Richard C. Luis at 1:30 p.m. on July 19, 2005 at the Office of Administrative Hearings in Minneapolis. Michael J. Tostengard, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2130 appeared on behalf of the Minnesota Department of Labor and Industry ("Department").^[1] There was no appearance by or on behalf of CastlePride Builders, LLC. The record closed on July 19, 2005.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Labor and Industry will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Nancy Leppink, Director of Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road, St. Paul, MN 55155 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 work days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUE

Whether disciplinary action should be taken against CastlePride Builders for failing to disclose outstanding judgments on its license application, thus providing false

and misleading formation to the Commissioner in violation of Minn. Stat. § 326.91, subd. 1(1)?

Based on all the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On May 18, 2005, a Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges was mailed to the Respondent and to the Respondent's Qualifying Person, to the following address: CastlePride Builders, LLC, P. O. Box 616, Elk River, Minnesota 55330, Attn: Christopher Hove, Qualifying Person.

2. The Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges in this matter reads, at page three:

"Respondent's failure to appear at the contested case hearing and/or prehearing conference may result in a finding that the Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and its proposed action be upheld."

3. The Respondent did not appear at the Prehearing Conference on July 19, 2005, nor did anyone appear on its behalf. The Respondent made no prehearing request for a continuance, nor did it file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges are deemed proved and are incorporated into these Findings by reference.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Labor and Industry have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, subds. 6 & 7 and 326.91.

2. Any of the Findings of Fact more properly termed Conclusions are incorporated as such.

3. The Respondent was given timely and proper notice of the Prehearing Conference in this matter. The Department has complied with all procedural requirements of law and rule.

4. Under Minn. Rule 1400.6000, the Respondent is in default as a result of its failure to appear at the scheduled Prehearing Conference.

5. Under Minn. Rule 1400.6000, the allegations and issues as set out in the Notice of and Order for Hearing, Order for Prehearing and Statement of Charges may be taken as true or deemed proved when a party defaults.

6. Based on the facts as set out in the Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges, the Respondent has violated Minn. Stat. § 326.91, subd. 1(1).

7. Disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7(a)(1).

Based on the Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RECOMMENDED that appropriate disciplinary action be taken against the residential building contractor's license of CastlePride Builders, LLC.

Dated this 18th day of August, 2005.

/s/ Richard C. Luis

RICHARD C. LUIS
Administrative Law Judge

Reported: Default

NOTICE

Upon Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

^[1] This matter was initiated by the Department of Commerce. On May 16, 2005, jurisdiction over builders' and remodelers' licenses was transferred to the Department of Labor and Industry by Executive Order of the Governor.